IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.227 OF 1997

Salim Maulasaheb Patel ..Petitioner
V/s
The State of Maharashtra ..Respondent

Mr. S.G. Kudle, Advocate for the petitioner.
Mr. Y.S. Shinde, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 7TH FEBRUARY, 2007.

ORAL JUDGMENT

. This revision application is directed against the conviction of the applicant for the offence punishable under Section 392 r/w section 34 of Indian Penal Code and sentenced to undergo R.I. for six months and to pay fine of Rs. 3,000/-.

2. Heard Mr. Kudle, learned Counsel for the applicant and Mr. Shinde, learned APP for the State. Perused record and proceeding.

3. The prosecution case, in brief, is that on 3/4/1997 P.W.1 Pundlik had withdrawn amount of Rs.

1000/- from the Bank. He was given a bundle of 100 currency notes of Rs.10/- each. He wrapped the said amount in a handkerchief. At about 11 or 11.30 a.m. he was stopped at Saibaba chowk by three accused persons and there he was assaulted and one of persons snatched away handkerchief consisting of bundle of the amount of Rs. 1000/- and his pass book. The culprits ran away. He immediately shouted and at some distance three culprits were nabbed by the people and were taken to the police station, where P.W.1 Pundlik lodged report. During the personal search of the accused persons, said handkerchief, bundle of currency note and pass book of pundlik were found with the present applicant, who was accused No.1. After investigation charge-sheet was filed against all the three accused. On behalf of prosecution in all six witnesses were examined. Besides P.W. 1 Pundlik, P.W. 2 Sidram Date was one of the persons who had seen the incident. P.W. 2 Sidram Date and P.W. 3 Sidram Hangunda had actually caught the accused persons. P.W. 6 Rajmohammed was investigating officer and other two witnesses were panchas. Relying on the testimony of the prosecution witnesses the learned Magistrate upheld the contention of the prosecution that three accused persons had actually

robbed complainant P.W. 1 Pundlik and all of them were nabbed by the people after some chase and that immediately property was recovered during the personal search of accused No.1 Salim. Relying on the testimony, the learned trial Court convicted all the three accused persons for the offence punishable under Section 392 and sentenced them to undergo R.I. for three years and to pay fine of Rs.3000/-each. All the three accused persons filed separate appeals, which came to be heard and disposed of by common judgment by the learned Additional Sessions Judge, Solapur. The learned Additional Sessions Judge minutely analysed the evidence and accepted the prosecution evidence that three accused persons had actually robbed Pundlik and had ran away but immediately after some chase they were caught. The learned Additional Sessions Judge however, found some discrepancies in the evidence about recovery of muddemal property during the personal search of accused No.1. The learned Appellate Court maintained the conviction but reduced the sentence to R.I. for six months and to pay fine of Rs. 3000/- and in default to undergo S.I. for 2 months. Accused No.1 alone has challenged the judgment and order passed by the Appellate Court in the present revision application.

4. With the help of learned Counsel for the appellant, as well as learned A.P.P. I have carefully gone through the oral evidence, as well as judgment passed by the Courts below. I find that there is reliable evidence to prove that the present applicant and two other accused had actually stopped P.W. 1 Pundlik and demanded some tobacco form him. Accordingly, the complainant gave some tobacco to the accused. At the same time, another accused demanded money from him for tea, which he refused. Third person caught him and one of them snatched the handkerchief consisting of bundle of currency notes of Rs. 1000/- and the pass book. After the accused persons snatched the said amount from the pocket of P.W.1 Pundlik, he tried to make hue and cry but one of the culprits gagged his mouth and gave fist blow on his stomach and than all three accused persons ran away. Pundlik raised hue and cry. Several persons including P.W. 2 Sidram Date, and P.W. 3 Sidram Hangunda chased culprits and caught them on the spot. According to P.W. 6 P.S.I. Rajmohamad, the said amount, pass book and handkerchief were seized from accused No.1 during the personal search. It is true that there was some discrepancy in the evidence of

panch witnesses and the P.S.I. about search but the fact remains that bundle of notes of P.W. 1 which had taken from the bank, his pass book and handkerchief, were actually recovered from accused and the property was produced before the Court also. The prosecution witnesses, particularly P.W.1 Pundlik had no reason to falsely implicate any of the accused persons. Taking into consideration the evidence on record, I find that prosecution satisfactorily proved the offence. I do not find any illegality, impropriety or irregularity in the order of conviction and sentence passed by the Courts below.

5. For the aforesaid reasons, revision application stands dismissed.

6. The applicant to surrender before the trial Court to undergo remaining part of the sentence awarded by the Courts below.

(J.H. BHATIA, J.)